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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/831,445	05/09/2001	James Herbert Mason	F-6970	4273

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01/15/2003

EXAMINER

MILLER, CRAIG S

ART UNIT PAPER NUMBER

2857

DATE MAILED: 01/15/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/831,445

Applicant(s)

Mason

Examiner

CRAIG Steven M. Heller

Group Art Unit

2857

— The MAILING DATE of this communication appears on the cover sheet beneath the correspondence address —

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, such period shall, by default, expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- ☒ Responsive to communication(s) filed on 09 May 2001
- ☐ This action is **FINAL**.
- ☐ Since this application is in condition for allowance except for formal matters, **prosecution as to the merits is closed** in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

Disposition of Claims

- ☒ Claim(s) 1-26 is/are pending in the application.
- Of the above claim(s) _____ is/are withdrawn from consideration.
- ☐ Claim(s) _____ is/are allowed.
- ☒ Claim(s) 1-26 is/are rejected.
- ☐ Claim(s) _____ is/are objected to.
- ☐ Claim(s) _____ are subject to restriction or election requirement

Application Papers

- ☐ The proposed drawing correction, filed on _____ is ☐ approved ☐ disapproved.
- ☐ The drawing(s) filed on _____ is/are objected to by the Examiner
- ☐ The specification is objected to by the Examiner.
- ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. § 119 (a)-(d)

- ☐ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119 (a)-(d).
- ☐ All ☐ Some* ☐ None of the:
- ☐ Certified copies of the priority documents have been received.
- ☐ Certified copies of the priority documents have been received in Application No. _____
- ☐ Copies of the certified copies of the priority documents have been received
- in this national stage application from the International Bureau (PCT Rule 17.2(a))

*Certified copies not received: _____

Attachment(s)

- ☐ Information Disclosure Statement(s), PTO-1449, Paper No(s). _____
- ☐ Interview Summary, PTO-413
- ☒ Notice of Reference(s) Cited, PTO-892
- ☐ Notice of Informal Patent Application, PTO-152
- ☐ Notice of Draftsperson's Patent Drawing Review, PTO-948
- ☐ Other _____

Office Action Summary

1. Claims 5-11, 17, 20, (5-8)/(12-16) and 21-26 are rejected under 35 USC 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Said claims are rejected because they include the modifier "*adapted*". The term "*adapted*" is defined as something having been designed for one use but used for a different purpose. Because applicant has not disclosed the container's original use and because there appears no reason within applicant's specification to perform any such adaptation, it is not clear whether the applicant intended such an adaptation. Should the applicant have intended to use the term *for*, such should be made more clear.

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. § 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless --

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claims 1, 1/12, 1/13, 1/15 and 1/16 are rejected under 35 U.S.C. § 102(b) as being anticipated by Palombi (5,029,397).

Palombi discloses a vehicle alignment gauging system including dimension measuring and output means [200], reference data storage means and comparison means, error signal generating and displaying means [within 38 as described in col. 2 lines 47+ and col. 5 lines 43+].

More particularly with respect to claims 1/12, 1/13, 1/15 and 1/16, said claims are directed towards inherent computer components within the computer as disclosed in Palombi.

4. The following is a quotation of 35 U.S.C. § 103 which forms the basis for all obviousness rejections set forth in this Office action:

A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Subject matter developed by another person, which qualifies as prior art only under subsection (f) or (g) of section 102 of this title, shall not preclude patentability under this section where the subject matter and the claimed invention were, at the time the invention was made, owned by the same person or subject to an obligation of assignment to the same person.

5. Claims 2, 3, 3/12, 3/13, 3/15, 3/16, 4-8, 4-8/12, 4-8/13, 4-8/15, 4-8/16, 9-11, 14, and 17-26 are rejected under 35 U.S.C. 103 as being unpatentable over Palombi.

As to claims 2, 3, 3/12, 3/13, 3/15, 3/16, 9, 10, and 21-26, said claims are directed towards using tape measures, particularly in an orthogonal relationship, to determine data point relative coordinates. Palombi discloses the use of triangulated coordinate measurements with respect to reference plane [300]/[400] rather than direct relative measurements as claimed. Palombi discloses translating the triangulated measurements to such direct measurements. Because direct measurements in place of triangulated calculations are known in general, because Palombi does not preclude direct measurement, and because applicant does not claim any unexpected results or synergistic results from the use of direct measurements, it would be obvious to one of ordinary skill in the art at the time the invention was made to use direct measurement in place of the triangulated calculated measurements of Palombi, each performing similar functions in similar ways, absent a showing of unexpected results or synergistic results, so as to receive the obvious benefits derived there from such as reduced system complexity and cost.

As to claims 4-8, 4-8/12, 4-8/13, 4-8/15 and 4-8/16, said claims are directed towards known tape measure devices for use as a measuring device. Because such measuring devices are so well known, because Palombi as modified above uses known tape measures for measuring distances, and because Palombi does not preclude the use of these known measuring devices, it would be obvious to one of ordinary skill in the art at the time the invention was made to use such known measuring devices within the device of Palombi, absent a showing of unexpected results or synergistic results, so as to receive the obvious benefits derived there from such as increased system accuracy and automation.

As to claims 11, 17 and 20, said claims are directed towards data display and user input within the tape housing. Palombi discloses user display and input at a computer [38]. It is known in

general to shift the location of a component, In re Japikse, 86 USPQ 70 (CCPA 1950) and to make integral that which was separate, In re Larsen, 144 USPQ 347 (CCPA 1965), In re Fridolph, 50 CCPA 745, 89 F.2d 509, 135 USPQ 319, In re Lockhart, 90 USPQ 214 (CCPA 1951). Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to integrate the separate display and user input into the tape housing of Palombi as modified above, absent a showing of unexpected results or synergistic results, so as to receive the obvious benefits derived there from such as ease of use and user convenience.

As to claim 14, said claim is directed toward the vehicle data being loaded from a CD ROM disk. It is well known within the art of automobile engineering and servicing to deliver selected vehicle service data via CD ROM disks as commonly done by ALLDATA[®]. Therefore because Palombi discloses loading vehicle data and because such data is commonly loaded from CD ROM disks for the selected vehicle, it would be obvious to one of ordinary skill in the art at the time the invention was made to load the selected vehicle service data via CD ROM disks within the device of Palombi, absent a showing of unexpected results or synergistic results, so as to receive the obvious benefits derived there from such as increased system flexibility.

As to claim 18, said claim is directed towards recording the measured coordinate upon user input. It is well known within the computer arts to perform storage operations upon user input. Therefore because Palombi inherently discloses saving data, it would be obvious to one of ordinary skill in the art at the time the invention was made to initiate the inherent saving step of Palombi upon user command, absent a showing of unexpected results or synergistic results, so as to receive the obvious benefits derived there from such as increased system accuracy.

As to claim 19, said claim is directed towards outputting data via a printer. Because Palombi discloses outputting the calculated data to the user, because printouts are a known means for outputting data, it would be obvious to one of ordinary skill in the art at the time the invention was made to output the data of Palombi via a known printer output device, absent a showing of unexpected results or synergistic results, so as to receive the obvious benefits derived there from such as increased system flexibility and permanent retention of measured data.

6. The prior art made of record but not relied upon is deemed pertinent to applicant's disclosure.


Grossman *et al.* (4,381,548) discloses a wheel alignment system.
Steber *et al.* (4,811,250) discloses a deviation measuring system.
Komura *et al.* (4,890,392) discloses a digital tape measure display with linear encoding.
Strege *et al.* (4,977,524) discloses a vehicle stance gauge.
Hoenig, Sr. (5,092,057) discloses an orthogonal measuring device.
McDonald (5,148,377) discloses a coordinate measuring device.
Nomaru *et al.* (5,168,453) discloses a work positioning apparatus.
January (5,388,057) discloses a camber caster measuring system.
Winslow *et al.* (5,553,389) discloses a vehicle toe adjusting system.
Clifton (5,787,599) discloses an orthogonal tape measuring device.
Hendrix (6,115,927) discloses a deviation measuring system.

7. Any inquiry concerning this communication or earlier communications from the Examiner should be directed to Craig Steven Miller whose telephone number is (703) 305-9730. Art Unit facsimile services are now available at (703) 308-7722.

The Examiner can normally be reached on Mondays and Thursdays from 7:30am-6:00pm EST. Should repeated attempts to reach the Examiner be unsuccessful, the Examiner's Supervisor, Marc Hoff may be reached at (703) 308-1677.

Any inquiry of a general nature or relating to the status of this application should be directed to the Group receptionist whose telephone number is (703) 308-0956.

Craig Steven Miller (ss)
07 January 2003


MARC S. HOFF
SUPERVISORY PATENT EXAMINER
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